

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PROGRESS REPORT AND PETITION FOR )  
APPROVAL OF MODIFICATION OF, AND )  
REVISED COST ESTIMATES RESPECTING )  
CLEAN COAL TECHNOLOGY OF )  
NORTHERN INDIANA PUBLIC SERVICE )  
COMPANY, UNDER THE ONGOING )  
REVIEW PROCESS APPROVED IN CAUSE )  
NO. 42150 AND 43188 PURSUANT TO IND. )  
CODE § 8-1-8.7 )

CAUSE NO. 43593

APPROVED: JAN 14 2009

**BY THE COMMISSION:**

David E. Ziegner, Commissioner

Loraine L. Seyfried, Administrative Law Judge

On October 23, 2008, Northern Indiana Public Service Company ("Petitioner", "Company" or "NIPSCO") filed with the Commission its Progress Report and Request for Approval of Revised Cost Estimates for Clean Coal Technology (the "Petition"). The Petition reported on the progress of NIPSCO's construction program utilizing clean coal technology ("CCT") approved by the Commission in Cause No. 42150 (November 26, 2002), Cause No. 42515 (February 4, 2004), Cause No. 42737 (January 19, 2005), Cause No. 42935 (December 21, 2005), Cause No. 43144 (December 13, 2006), Cause No. 43188 (July 3, 2007), and Cause No. 43371 (December 19, 2007) and submitted for Commission approval revised cost estimates for the installation of that technology.

Pursuant to notice given as provided by law, proof of which was incorporated into the record, an evidentiary hearing was held in this matter on December 16, 2008, at 3:00 p.m., in Room 222 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, NIPSCO presented its case in chief, consisting of the prefiled testimony of Philip W. Pack along with the exhibits appended to the Petition. The OUCC participated in the hearing and presented the testimony of Ms. Cynthia Pruett.

Based upon the applicable law and the evidence herein and being duly advised, the Commission now finds that:

1. **Notice and Jurisdiction.** Proper legal notice of the hearing in this Cause was given and published by the Commission as required by law. Petitioner is a public utility within the meaning of the Public Service Commission Act, as amended, Ind. Code § 8-1-2, and is subject to the jurisdiction of the Commission, in the manner and to the extent provided by Indiana law. The Commission has jurisdiction over the Petitioner and subject matter of this Cause.

2. **Petitioner's Characteristics.** Petitioner is a public utility organized and existing under Indiana law, with its principal office at 801 E. 86<sup>th</sup> Street, Merrillville, Indiana 46410. NIPSCO owns and operates property and equipment used for the production, transmission, delivery and furnishing of electric utility service to the public in northern Indiana.

3. **Relief Requested.** On November 26, 2002, the Commission approved NIPSCO's NOx Compliance Plan ("NOx Plan") and proposed Environmental Cost Recovery Mechanism ("ECRM"), as set forth in its Rule 47, which provided for ratemaking treatment of NIPSCO's qualified pollution control property ("QPCP"), pursuant to Ind. Code §§ 8-1-2-6.6 and 6.8 and Ind. Code § 8-1-8.7. On February 4, 2004, January 19, 2005, December 21, 2005, and December 13, 2006, the Commission approved revisions of NIPSCO's NOx Plan, by its Orders entered in Cause Nos. 42515, 42737, 42935 and 43144, respectively. On July 3, 2007, the Commission approved in Cause No. 43188 NIPSCO's plans to comply with the U.S. Environmental Protection Agency's Clean Air Interstate Rules ("CAIR") and Clean Air Mercury Rules ("CAMR"), which plans will require additional emission reductions of sulfur dioxide ("SO<sub>2</sub>"), nitrogen oxides ("NO<sub>x</sub>") and Mercury, and together with NIPSCO's NOx Plan are hereinafter referred to as NIPSCO's "Compliance Plan." The Commission approved additional revisions to NIPSCO's Compliance Plan by its Order in Cause No. 43371 dated December 19, 2007. Pursuant to Ind. Code § 8-1-8.7-7, NIPSCO requests that the Commission approve additional revisions of its Compliance Plan. A copy of the revised plan as approved by the Commission in Cause Nos. 43371 was attached as Exhibit A to the Company's Petition in this Cause. The Compliance Plan as proposed to be further revised and updated for changes in estimated costs, construction start, and in-service dates and a scope addition was attached as Exhibit B to the Petition. Exhibit C to the Petition described the changes in greater detail. Mr. Pack's Testimony was attached to the Petition as Exhibit PWP-1.

4. **Summary of Petitioner's Evidence.** Mr. Pack testified concerning the Compliance Plan and its revisions, and discussed the current construction schedule for their implementation, as well as a current estimate of the costs that will be incurred by the Company. His testimony described NIPSCO's plan to use Flue Gas Desulfurization systems ("FGD") and Low NOx Burner/Separated Overfired Air technology as means to reduce SO<sub>2</sub> and NO<sub>x</sub> emissions. He also discussed the uncertainty surrounding implementation of CAIR and CAMR rules because of the vacatur of those rules by the Federal District Court. He explained that NIPSCO intends to move forward with implementation of technology to comply with the new standards in part because of the potential for the Indiana Department of Environmental Management ("IDEM") to implement the rules under state law.

Mr. Pack testified that the Compliance Plan continues to evolve and is the result of studies of various alternatives and reflects the optimal compliance strategies for the Company at this time. Mr. Pack stated since completion of the studies giving rise to the plan as approved by the Commission in Cause No. 42150, internal NIPSCO working groups have continued to evaluate new information and review assumptions and make improvements to the plan where possible. He explained that the revised Compliance Plan is the latest compliance optimization variation in the Company's planning process, and provided additional detail about the status of implementation for each of NIPSCO's generating units as shown in Exhibit C to the Petition.

Petitioner's Exhibit B documented the proposed revisions to the Company's Compliance Plan, including construction beginning and completion dates for facilities that have been or will be installed. Exhibit B to the Petition also showed NIPSCO's current cost estimates for its revised Compliance Plan, which Mr. Pack testified are predicated upon the best and most current information available to the Company and the utility industry, and represent the Company's best estimates for the cost of implementing the current plan. He said the plan is updated at least every 12 months. Exhibit C to the Petition summarized the revisions to the Company's plan since its approval in Cause No. 43371.

Mr. Pack said that none of the CCT the Company is proposing to use in its revised Plan was in general commercial use on January 1, 1989, and that all of the CCT that the Company is proposing to use is more efficient than conventional technologies in general use as of January 1, 1989. He said that the CCT the Company is proposing will extend the useful life of NIPSCO's existing generating facilities and achieve the required NOx, SO2 and Mercury reductions. He said that the use of CCT may change the priority in the dispatching of the Company's generating units if a re-dispatch is necessary to achieve compliance with the law. He knew of no adverse environmental factors associated with by-products resulting from utilization of the proposed CCT. He also opined that use of the proposed CCT in the Company's plan is in the public interest, because it will allow NIPSCO to continue to meet demands made upon it for electric power, while doing so in an environmentally compliant manner, and at the lowest reasonably achievable cost. Mr. Pack testified that the Company's current estimate of the cost of constructing and implementing the proposed CCT is \$368,418,519, as shown in Petitioner's Exhibit B, which is an increase over the Company's earlier revised estimate of \$338,465,246.

**5. OUCC Testimony.** The OUCC's witness, Ms. Pruett, recommended that the Commission approve NIPSCO's Compliance Plan as revised. She observed that project construction cost budgets reflect an overall increase of 8.8%, which includes an increase of 1.6% for the NOx Compliance Plan and an increase of more than 100% for the CAIR/CAMR Phase I Compliance Plan budget. She explained that the significant increase in the CAIR/CAMR budget was driven by the near doubling of the costs of each of NIPSCO's three environmental projects. She testified that the cost of NIPSCO's Overfired Air system on Unit 15 had increased by \$4.5 Million to \$9.6 Million, that the Unit 17 FGD upgrade estimate had increased by \$9.22 Million to \$18.4 Million, and that the Unit 18 FGD upgrade project had increased in cost by \$8.22 Million to an estimated overall cost of \$17.4 Million. Ms. Pruett explained that while the increases in cost were troubling, it appears the costs were outside of the control of the utility and are consistent with increases in labor and material costs seen by other utilities. She stated that based on her investigation of NIPSCO's bidding procedures and her review of additional documents that NIPSCO provided informally to the OUCC, it appears that NIPSCO is actively managing construction costs. She concluded by recommending approval of NIPSCO's NOx Compliance Plan and its CAIR/CAMR Compliance Plan revisions as proposed.

**6. Commission Discussion and Findings.** Based on the evidence presented, the Commission finds NIPSCO's revised Compliance Plan as described in Petitioner's Exhibit B attached to the Petition should be approved. We find the revised construction cost estimates, scope addition and updated construction start and in-service dates provided by NIPSCO in this

Cause are reasonable, and the Compliance Plan as revised is in the public interest and should be approved.

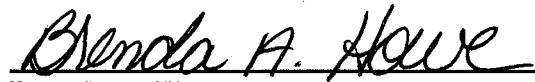
**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

1. Pursuant to Ind. Code § 8-1-8.7-7, NIPSCO's revised Compliance Plan as described in Petitioner's Exhibit B attached to the Petition is hereby approved.
2. This Order shall be effective on and after the date of its approval.

**HARDY, GOLC, LANDIS, SERVER, AND ZIEGNER CONCUR:**

**APPROVED: JAN 14 2009**

**I hereby certify that the above is a true  
and correct copy of the Order as approved.**

A handwritten signature in cursive script, reading "Brenda A. Howe", is written over a solid horizontal line.

**Brenda A. Howe,  
Secretary to the Commission**